



The INDIAN in the UNITED STATES

By MRS. FRED S. BENNETT

No other group in this country has so complicated a relationship to the Federal Government as have the 350,000 American Indians. A recent compilation prepared by the Federal Government shows 389 treaties made with Indian Tribes and 4,267 laws enacted by Congress concerning them. "During the century and a half covered by this compilation," says the Foreword, "the groups of human beings with whom Indian laws deal have undergone changes in living habits, institutions, needs and aspirations, far greater than the changes that separate from our own age the ages for which Moses, Lycurgus or Justinian legislated . . . This compilation reveals a tremendous mass of obsolete and anachronistic legislation which weighs upon the backs of Indians and Indian service officials . . . blocking the attainment of objectives desired alike by the Indians, by the Indian Service and by Congress."

Cheyenne Indian Design

Many friends of the Indian people welcome the above study as showing the anomalous position of the North American Indian, as a step toward a more clear-cut and understanding policy for these people and toward their establishment on a basis of citizenship that is unhampered by restrictions not applicable to American citizens of all races.

From time to time various tribes had been accorded citizenship but it was not until 1924 that by Act of Congress this standing was given to all Indians born within the United States. Such Act did not, however, for Indians any more than it does for whites, carry with it the privilege of the vote — a right that may be conferred or abridged by an individual state; but while “it is beyond the constitutional power of any State to deny the right of Indians to vote simply because they are Indians . . . a few states, particularly in the extreme south and southwest, have attempted to discriminate against the Indians as with the Negroes, by setting up rigid requirements as to registration, residence, etc., so as to make it as difficult as possible for voters in these two classes to meet such requirements.”*

There are still about 200 tribes — some of them mere remnants but retaining individual languages and dialects. Reservations have been allotted to these tribes, most of them west of the Mississippi River. On these reservations

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live some 200,000 Indians. Others have left these homes to go out to mingle with the white population of the country, a trend that seems inevitable as government, church, and other agencies give to the younger people modern education that is broadening and challenging. Increasingly numbers of these young Indians have found employment in the Government Indian Service so that by 1940 it enrolled 4,682, many of whom were in the Office of Indian Affairs in Washington, D. C.

The Indian Reorganization Act of 1934, adopted by a majority of the tribes, seems utterly at variance with the above tendencies in educational opportunity for its trend is toward the continuance of Indian peoples as units within, yet isolated from, the body politic. Certain phases of the Reorganization Act such as the provision for preservation of Indian land, for better standards of living and for training in collective service, merit only praise, but one may ask whether a "group-destiny" be possible for so small a number of people in a Commonwealth of 130,000,000 population.

"Apparently," says a student of Indian affairs, "the Indian is at once to cling to his own folkways and to learn all the white men can give. It is an enticing ideal; but it demands the lack of mental coordination which would lead one to dance in propitiation of the rain gods and at the same time rely on the advice of the Department of Agriculture."

The increasing inter-marriage of Indians and whites must gradually produce a people less race-conscious than an unadulterated blood group might be. The Chippewas, for example, have but 15 per cent full-bloods and other tribes have large admixtures of white blood, a process that began in the very early days and became particularly noticeable after the French and English wars. "What constitutes an Indian?" is a frequent question. Often one-sixty-fourth of Indian blood is recognized as enabling an applicant to be enrolled in a tribe.

THE PROBLEM OF WARDSHIP

A most fundamental difficulty facing the majority of the Indians is that caused by their "wardship" — a peculiar relation they bear to the Federal Government. It is not possible to explain Indian Wardship with brevity or simplicity. In 1831 the Cherokees, then in Georgia, maintained that they constituted a "nation," and as such could appeal to the court for action against the State of Georgia. The matter was referred to the Supreme Court of the United States and the decision rendered by Chief Justice John Marshall was:

"It may well be doubted whether these tribes which reside within the acknowledged boundaries of the United States can, with strict accuracy, be denominated foreign nations. They may, more correctly, perhaps, be denominated domestic dependent nations. They occupy a



territory to which we assert a title independent of their will, which must take effect in point of possession when their right of possession ceases. Meanwhile they are in a state of pupillage. Their relation to the United States resembles that of a ward to a guardian."

This relationship has never been clearly defined in the more than one hundred years since Justice Marshall's statement, yet it controls and limits Indian life and relationships at every turn. An Indian may freely leave his home and acreage without specific permission but he may not in many cases sell that same acreage without specific permission obtained through Act of Congress. He became a citizen but this did not abrogate his wardship per se and at every turn he is hampered by his dual relationships.

In spite of the more than 4,000 laws, as noted in the recent Compilation, none appears to define in terms applicable to all tribes, or for all tribes in severalty, the exact and detailed relationship of Indian wards and the Federal Government, or to make better the anomalous position of peoples declared to be citizens of a free country who yet are restrained in this citizenship by the not-fully-determined terms of their wardship. Each case that arises is decided individually and through the years these have built up much of the "obsolete and anachronistic legislation" on the statute books.

Only Congress can define, limit or abolish wardship. Many people, both Indian and white,

feel that the time for such action has come. Laws, treaties, land holdings and trust funds held for the Indian by the Federal Government are all affected by this undefined relationship. Twenty-eight laws regarding Indians were passed during a recent session of Congress, thus continuing the accumulation of detailed and often petty laws, whereas, a few wisely drawn laws might make the relationship of these people to the land of their fathers the same as that of other citizens: the need for special enactments would thus disappear.

In this year, 1942, when "Democracy" is our watchword, when men are fighting for that ideal around the world, when Indian men in large numbers have joined the American forces, one may seriously raise the question if this is not the time for the United States to more carefully study its relationship to this small minority of its own population and strive to accord to it, with generosity overflowing, a full if belated measure of justice and fellowship. What a gift this would be to those Indian men now fighting in foreign lands to keep freedom and democracy alive in the world!

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